

COMMITTEE AMENDMENT FORM

DATE: 11/26/08

COMMITTEE ZONING

PAGE NUM. (S)

ORDINANCE I. D. #08-O-1465-

SECTION (S)

RESOLUTION I. D. #08-R-

PARA.

AMENDS THE LEGISLATION BY ADDING FOURTEEN (14) CONDITIONS.

AMENDMENT DONE BY COUNCIL STAFF 11/26/08

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City Council
Atlanta, Georgia

08-O-1465

AN AMENDED ORDINANCE
BY: ZONING COMMITTEE

Z-08-50
Date Filed: 7-2-08

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended, and the maps established in connection therewith be changed so that the following property located at **3110, 3116, 3126 and 3136 Roswell Road, N.E.**, be changed from the C-3 (Commercial Residential) District to the MRC-3-C (Mixed Residential Commercial-Conditional) District, to wit:

ALL THAT TRACT or parcel of land lying and Land Lot 99, 17th District, Fulton County, Georgia being more particularly described by the attached legal description and/or survey.

SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

Conditions for Z-08-50 for 3110, 3116, 3126, Roswell Road, N.E.

1. Except as otherwise provided in this condition 1, development will be restricted to the following maximums:

| | <u>Non-residential</u> | <u>Residential</u> |
|--------------|------------------------|--------------------|
| Parcel A | 85,000 SF | 40,000 SF |
| Parcel B | 250,000 SF | 100,000 SF |
| Parcel C | 210,000 SF | 0 SF |
| Parcel D | 325,000 SF | 264,000 SF |
| Parcel E | <u>120,000 SF</u> | <u>100,000 SF</u> |
| Total | 990,000 SF | 504,000 SF |

Subject to compliance with all other ordinances, regulations, and conditions applicable to the Parcels, (a) the above densities may be moved from Parcel to Parcel, (b) residential square footage may be exchanged for an equal amount of nonresidential square footage and (c) nonresidential square footage may be exchanged for an equal amount of residential square footage. The total aggregate development on all the Parcels shall not exceed 1,494,000 square feet. Below grade storage areas shall not be included in the calculation of the development maximums in this Condition 1.

2. Parcels A, B, C, D and E will contain an aggregate minimum of 25,000 square feet of landscaped area, including any square feet donated to the City of Atlanta or other qualified entity as park space. That figure will include a publicly accessible landscaped area of not less than 21,250 contiguous square feet on Parcel D, the control of which will remain with Applicant or another private entity.
3. Applicant will require that any hotel and residential association in the development on the site become a member of the Buckhead Area Transportation Management Association (BATMA) prior to the issuance of a certificate of occupancy for each such use. At least one level of each parking garage and parking deck shall be van pool accessible.
4. The Applicant shall provide the maximum of either (a) 25 bicycle parking spaces or (b) the number of bicycle parking spaces required by the City of Atlanta, whichever is greater, in the aggregate on Parcels A, B, C, D and E. These spaces shall be located as close as practicable to the buildings while, in the developer's sole discretion, maintaining the architectural integrity of the buildings and their landscaping and hardscaping schemes.
5. Permanent storm water detention shall be located below grade or will not be visible for the public right-of-way. The project, upon completion, shall release storm water runoff at a rate equal to 65% or less of the predevelopment storm water runoff rate.

6. All dumpsters will be screened from public rights-of-way.
7. Exterior lighting on buildings and parking decks shall be designed, shielded and constructed so as to minimize light spill into single-family areas.
8. Prior to the beginning of demolition of each parcel, a demolition management plan for demolition traffic will be prepared and will be delivered to the Development and Transportation Chair of NPU-B and to the Director of the Bureau of Planning for review. Likewise, prior to the beginning of construction of each parcel, a construction management plan for construction traffic will be prepared and will be delivered to the Development and Transportation Chair of NPU-B and to the Director of the Bureau of Planning for review. Specifically with regard to Parcel D, the plan for construction traffic will be coordinated with the Suzuki School (if it is then located across from Parcel D) to minimize conflicts with school traffic. Evidence of compliance with this condition shall be provided in writing to the Bureau of Planning prior to issuance of a Special Administrative Permit.
9. These conditions of zoning shall be binding upon all successors and assigns of the Applicant. The subdivision, sale, or partition of all or any part of this property shall not alter the obligation of all owners of the property to comply with these conditions of zoning. The Applicant will not request any administrative amendment without providing evidence that notice of such request has been given to the Chair of the Zoning Committee of NPU-B which seeks to:
 - (a) increase the square footage of any building or the number and/or location of parking spaces; except as provided in paragraph 1;
 - (b) change any of the uses or location of said uses specified except as provided in paragraph 1;
 - (c) decrease any required exterior setback or the amount of landscaped area;
 - (d) materially reduce public access or public spaces; or
 - (e) otherwise materially alter these conditions.

The Applicant will have the right to request administrative changes without such notification so long as such changes are required to comply with technical permitting requirements of the City of Atlanta or to address site conditions.

10. The Applicant, with the support of NPU B, shall request and support appropriate legislation that will require that all transportation impact fees generated from this development will be used to mitigate traffic on the streets in the area surrounding the development. Evidence of compliance with these conditions shall be provided in writing to the Bureau of Planning at the initial application for a Special Administrative Permit.

11. Any public commercial dry cleaning facilities shall be a collection facility only and shall not contain dry cleaning equipment except for laundry/dry cleaning facilities within hotels and residential buildings and serving those uses.
 12. The developer will use best efforts to ensure that all non-residential buildings will be constructed in a manner designed to limit environmental and energy impacts.
 13. All of these narrative conditions shall be printed on the final site plan filed with the City of Atlanta.
 14. Within sixty days of completion of demolition of the improvements on a Parcel, the developer shall commence development on the Parcel or plant grass on the entire Parcel as an interim measure.
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City Council
Atlanta, Georgia

08-0-1465

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SECTION 2. If this amendment is approved under the provisions of Section 16-02.003 of the Zoning Ordinance of the City of Atlanta, entitled, "Conditional Development", as identified by the use of the suffice "C" after the district designation in Section 1 above, the Director, Bureau of Buildings, shall issue a building permit for the development of the above-described property only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any district regulations. District regulation variances can be approved only by application to the Board of Zoning Adjustment.

SECTION 3. That the maps referred to, now on file in the Office of the Municipal Clerk, be changed to conform with the terms of this ordinance.

SECTION 4. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

EXHIBIT "A"

ALL THAT CERTAIN TRACT OF LAND LYING AND BEING IN LAND LOT 99 OF THE 17th DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE FULLY SHOWN ON AN ALTA/ACSM LAND TITLE SURVEY FOR NOVARE DEVELOPMENT, LLC, CHICAGO TITLE INSURANCE COMPANY, WEST GEORGIA NATIONAL BANK AND 3116 ROSWELL ROAD, LLC PREPARED BY HIGHLAND ENGINEERING INC. DATED JANUARY 2, 2007 AND LAST REVISED TO JANUARY 11, 2007 AND HAVING THE FOLLOWING METES AND BOUNDS:

BEGINNING AT A R.R. SPIKE FOUND AT THE INTERSECTION OF THE SOUTHERN RIGHT-OF-WAY OF IRBY AVENUE (50' R/W) AND THE WESTERN RIGHT-OF-WAY OF ROSWELL ROAD (R/W VARIES), SAID POINT BEING THE POINT-OF-BEGINNING, (P.O.B.); THENCE TURNING AND CONTINUING ALONG THE WESTERN RIGHT-OF-WAY OF ROSWELL ROAD (R/W VARIES) SOUTH 15 DEGREES 05 MINUTES 22 SECONDS WEST (S15°05'22"W) FOR A DISTANCE OF 143.01' TO AN IRON PIN SET; THENCE CONTINUING SOUTH 16 DEGREES 21 MINUTES 38 SECONDS WEST (S16°21'38"W) FOR A DISTANCE OF 100.39' TO AN IRON PIN SET; THENCE CONTINUING SOUTH 17 DEGREES 50 MINUTES 20 SECONDS WEST (S17°50'20"W) FOR A DISTANCE OF 50.03' TO A P.K. NAIL SET; THENCE TURNING AND LEAVING SAID RIGHT-OF-WAY CONTINUING ALONG THE LINE OF OTHER LANDS OF R. CHARLES LOUDERMILK, ET AL NORTH 75 DEGREES 02 MINUTES 50 SECONDS WEST (N75°02'50"W) A DISTANCE OF 191.40' TO A P.K. NAIL SET ON THE EASTERN RIGHT-OF-WAY OF EARLY STREET (R/W VARIES); THENCE CONTINUING NORTH 75 DEGREES 03 MINUTES 22 SECONDS WEST (N75°03'22"W) FOR A DISTANCE OF 1.69' TO A P.K. NAIL SET; THENCE TURNING AND CONTINUING NORTH 21 DEGREES 17 MINUTES 22 SECONDS EAST (N21°17'22"E) FOR A DISTANCE OF 49.96' TO A P.K. NAIL FOUND; THENCE CONTINUING NORTH 75 DEGREES 14 MINUTES 43 SECONDS WEST (N75°14'43"W) FOR A DISTANCE OF 7.61' TO A P.K. NAIL FOUND; THENCE TURNING AND CONTINUING NORTH 18 DEGREES 18 MINUTES 46 SECONDS EAST (N18°18'46"E) FOR A DISTANCE OF 185.64' TO A P.K. NAIL FOUND ON THE SOUTHERN RIGHT-OF-WAY OF IRBY AVENUE (50' R/W); THENCE TURNING AND CONTINUING ALONG SAID RIGHT-OF-WAY NORTH 87 DEGREES 50 MINUTES 17 SECONDS EAST (N87°50'17"E) FOR A DISTANCE OF 198.42' TO A R.R. SPIKE FOUND ON THE WESTERN RIGHT-OF-WAY OF ROSWELL ROAD (R/W VARIES), THE POINT-OF-BEGINNING, (P.O.B.). SAID TRACT OF LAND CONTAINS 1.17 ACRES (51,011 SQ.FT.).

Z-08-50

182



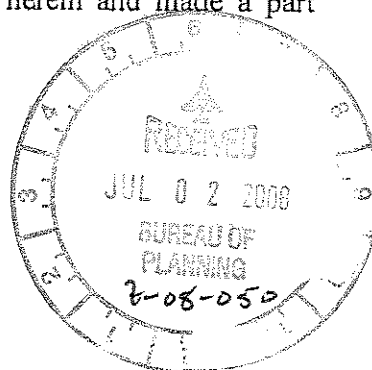
EXHIBIT "A"

ALL OF THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 99 of the 17th District of Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at a railroad spike placed at the intersection of the southerly right-of-way line of Irby Avenue (50' right-of-way) with the northwesterly right-of-way line of Roswell Road (variable right-of-way); running thence along the northwesterly right-of-way line of Roswell Road the following courses and distances: South $15^{\circ}05'22''$ West 143.01 feet to a point; South $16^{\circ}21'38''$ West 100.39 feet to a point; and South $17^{\circ}50'20''$ West 50.00 feet to a point, said point being the **TRUE POINT OF BEGINNING**; FROM THE **TRUE POINT OF BEGINNING** thus established, continue thence along the northwesterly right-of-way line of Roswell Road, South $17^{\circ}48'29''$ West a distance of 122.80 feet to a point; thence departing the northwesterly right-of-way line of Roswell Road, and proceeding along the centerline of an interior demising wall as currently located, North $71^{\circ}05'03''$ West a distance of 72.42 feet to a point on the outside building line; thence departing said demising wall and proceeding along the outside building line the following courses and distances: South $15^{\circ}15'53''$ West 1.15 feet to a building corner; North $73^{\circ}30'09''$ West 19.80 feet to a building corner; and South $18^{\circ}10'48''$ West 5.14 feet to a point; running thence North $75^{\circ}08'23''$ West, and departing said building line, a distance of 100.51 feet to a point located on the southeasterly right-of-way line of Early Street (variable right-of-way); running thence along the southeasterly right-of-way line of Early Street the following courses and distances: North $18^{\circ}27'29''$ East 39.76 feet to a nail and cap placed; North $74^{\circ}51'52''$ West 10.00 feet to a nail and cap placed; North $18^{\circ}27'27''$ East 68.04 feet to a point; South $75^{\circ}22'53''$ East 10.00 feet to a point; and North $18^{\circ}28'15''$ East 15.87 feet to a point; running thence South $75^{\circ}03'21''$ East, and departing the southeasterly right-of-way line of Early Street, a distance of 191.40 feet to a point located on the northwesterly right-of-way line of Roswell Road and the **TRUE POINT OF BEGINNING**; according to As-Built Survey for "Loudermilk/Rohrig 3084, LLC, a Georgia limited liability company; Rohrig Investments, LP, a Georgia limited partnership; 3110 Roswell Road, LLC, a Georgia limited liability company; and Chicago Title Insurance Company," dated September 17, 2004, last revised August 1, 2007, prepared by Watts & Browning Engineers, Inc., under the seal and certification of V. T. Hammond, Georgia Registered Land Surveyor No. 2554, and under Job No. 070304; said tract of land containing 0.55231 of an acre (24,058 square feet) and designated as "Tract One" according to said survey, which survey is incorporated herein and made a part hereof by reference.

708-50

292



RCS# 2319
8/18/08
9:36 PM

Atlanta City Council

REGULAR SESSION

MULTIPLE 08-O-1464,1465,1466,1467,1468,1469,1470
08-O-1471,1472
REFER ZRB/ZONE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | Y Archibong | Y Moore | Y Mitchell |
| Y Hall | NV Fauver | NV Martin | Y Norwood |
| Y Young | Y Shook | B Maddox | Y Willis |
| Y Winslow | Y Muller | Y Sheperd | NV Borders |

MULTIPLE